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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,470	02/06/2004	William R. LaCourse	2254.0010001	6717

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EXAMINER
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RAEVIS, ROBERT R

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/772,470	<b>Applicant(s)</b> LACOURSE ET AL.	
	<b>Examiner</b> Robert R. Raavis	<b>Art Unit</b> 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,5-9,20,22-24 and 27-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5-9,20,22-24 and 27-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                       |                                                                                        |
|-----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____                                                |

### DETAILED ACTION

Claims 1,5-9,22-24,20-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

As to claims 1 and 20, it is doubtful that the screen coated with tetrafluoroethylene actually “does not permit bulk flow of liquids **and** solids” (highlighting added, last line of each of claims 1 and 20). This is the case, that claimed structural subcombination is expressly taught in Christy, yet Christy states that the subcombination makes a screen impervious to the “bulk flow of **either** gases, liquids **or** solids” (highlighting added, col. 2, lines 64-65). The structure of Applicant’s claimed membrane is identical to that of Reference Christy, and yet that functions are not expressly described as being identical. In addition, it’s noted that the Christy Reference is expressly described on page 6 of the written specification, in effect resulting in an internally inconsistent written specification on that point.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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Claims 1,5,6,8,22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christy in view of Taylor, and further in view of Robbat, Jr.

Christy teaches (Figures 1,3) an apparatus for sampling gas from the ground, including: semi-permeable, gas permeable membrane 30 (TFE on a steel-screen) that is impervious to bulk for of either gases or liquids; support 34; and "DETECTOR" (Figure 1).

Christy does not employ a heater, vacuum or gas chromatograph.

As to claims 1,5,6,8,22,23,24, it would have been obvious to a vacuum to draw sample gas to a gas chromatograph as Taylor teaches (Col. 2, lines 43-65) use of high vacuum lines to successfully draw sample from a probe to an "on-site" (line 2) chromaograph for accurate gas analysis. It would have been obvious to employ a probe heater near the membrane because Robbat teaches use of a heater 232to heat soil surrounding a soil probe to facilitate drawing of gas/contaminants of interest.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Christy in view of Taylor, and further in view of Robbat, Jr as applied to claim 1 above, and further in view of Traina '432.

As to claim 7, it would have been obvious to employ a chiller 18 upstream of Christy's analyzer because Traina teaches (col. 3, lines 24-30) use of a chiller to allow ofor gas concentration measurements on a dry basis.

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Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Christy in view of Taylor, and further in view of Robbat, Jr as applied to claim 1 above, and further in view of Neal.

As to claim 9, it would have been obvious to employ a sample loop for Taylors GC, as loops are commonly employed to provide fixed sample volumes to GCs for analysis. This is evidenced by Neal, which expressly teaches (Figure 1) drawing a sample 20 of interest into a loop 22b via a vacuum for subsequent injection into a GC 28.

Claims 20,27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christy in view of Taylor, and further in view of Robbat, Jr., and further in view of Neal.

Comments that exist above regarding claim 9 similarly apply here.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Monson et al employ a vacuum pump 71, and Zaikowsky et al employ a trap 53.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 571-272-2204. The examiner can normally be reached on Monday to Friday from 5:30am to 3pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams, can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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